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**UNITED STATES DEPARTMENT OF COMMERCE  
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 IP ADMINISTRATION  
LEGAL DEPARTMENT 20B0  
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EXAMINER

HOMER, J  
ART UNIT

PAPER NUMBER

2307

DATE MAILED: 05/22/97

 This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☐ Responsive to communication filed on \_\_\_\_\_ ☐ This action is made final

 A shortened statutory period for response to this action is set to expire 3 month(s), \_\_\_\_\_ days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133
**Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:**

- |   |  |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input checked="" type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-848. |
| 3. <input checked="" type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449.      | 4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152.                  |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474.     | 6. <input type="checkbox"/> _____  |

**Part II SUMMARY OF ACTION**

1. ☒ Claims 1-56 are pending in the application.  
Of the above, claims none are withdrawn from consideration.
2. ☐ Claims \_\_\_\_\_ have been cancelled.
3. ☐ Claims \_\_\_\_\_ are allowed.
4. ☒ Claims 1-13, 16-17, 24-25, 27-38, 41-42, 44-47, 49-50, 52-55 are rejected.
5. ☒ Claims 14-15, 18-23, 26, 39-40, 43, 48, 51, 56 are objected to.
6. ☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-848).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed \_\_\_\_\_, has been ☐ approved; ☐ disapproved (see explanation).
12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

**EXAMINER'S ACTION**

Art Unit: 2307

## **DETAILED ACTION**

### ***Specification***

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

### ***Information Disclosure Statement***

2. The information disclosure statement(IDS) filed on 11/14/95 complies with the provisions of MPEP § 609 . It has been placed in the application file, the information referred to therein has been considered as to the merits.

### ***Drawings***

3. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

Art Unit: 2307

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 148 USPQ 459, that are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or unobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

Art Unit: 2307

5. Claims 1-13, 16-17, 24-25, 27-38, 41-42, 44-47, 49-50, 52-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mukherjee et al. ('Mukherjee' hereinafter), US Patent no.5,317,729, in view of Koerber et al. ('Koerber' hereinafter), US Patent no.5,581,755.

As to claim 1, Mukherjee substantially disclosed the invention, including a data processing system comprising the steps of:

- 1) initiating a search request within a sequence of delta streams for a number of data bytes (col.12, lines 27-31);
- 2) fulfilling the search request with data bytes provided by a first sequence of delta streams (col.11, lines 35-38);
- 3) fulfilling the search request provided by a second sequence of data streams (col.11, lines 39-43).

Mukherjee did not specifically detail the step of searching an original sequence of delta streams for fulfilling a search request, if a last sequence of delta stream is incapable of fulfilling the request. Further, Mukherjee did not detail the step of repeating steps 1-3 until the updated data stream is complete. However, Koerber disclosed an analogous system that searches sequences of data streams stored in a repository, starting with the most recent to the least recent sequences until the search request is found (see col.13, line 60 - col. 14, line 36). It would have been obvious to one of ordinary skill in the art of data processing to combine the teachings of the

Art Unit: 2307

cited references because Koerber's system would allow Mukherjee's to more rapidly detect version changes and retrieve a requested data sequence.

As to claims 2-3, Mukherjee taught:

- 1) delta streams comprise a sequence of match data/delta frames (col.10, lines 53-57 );
- 2) the match frames describe matching segments of a delta stream and a prior stream in terms of byte and addresses (col.10, line 64 - col. 11, line 19);
- 3) the data frames comprise data in a delta stream which does not appear in a prior stream (col.11, lines 23-34).

As to claim 4, Mukherjee taught the step of:

- 1) reading the original data stream directly from a sequential media (col.3, lines 12-20).

As to claim 5, Mukherjee taught the step of:

- 1) writing the updated data stream to a sequential media (col.3, lines 26-30).

5a. The limitations of claims 6-13, 16-17, 24-25, 27-38, 41-42, 44-47, 49-50, 52-55 have already been addressed in the preceding paragraph. They are therefore rejected on similar grounds.

Art Unit: 2307

*Allowable Subject Matter*

6. Claims 14-15, 18-23, 26, 39-40, 43, 48, 51, and 56 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Since allowable subject matter has been indicated, applicant is encouraged to submit formal drawings in response to this Office action. The early submission of formal drawings will permit the Office to review the drawings for acceptability and to resolve any informalities remaining therein before the application is passed to issue. This will avoid possible delays in the issue process.

*Conclusion*

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please see attached PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean R. Homere whose telephone number is (703)-308-6647. The examiner can normally be reached on Monday-Friday from 08:30 a.m.-5:00 p.m.

Art Unit: 2307

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas G. Black, can be reached on (703)-305-9707. The facsimile phone number for this group is (703) 308-5357.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-9600.

Jean R. Homere  
Patent Examiner, Au 2307  
May 15, 1997

*Thomas G. Black*  
THOMAS G. BLACK  
SUPERVISORY PATENT EXAMINER  
MAY 15 1997